

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ALFRED RAY CARTER,)
)
Plaintiff,)
)
v.) Case No. CIV-04-883-T
)
DR. JEFF TROUTT, *et al.*,)
)
Defendants.)

ORDER

Petitioner, a state prisoner appearing *pro se*, brought this action pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights. The matter was referred to United States Magistrate Judge Bana Roberts, pursuant to 28 U.S.C. §636, for initial proceedings. On June 23, 2005, Judge Roberts issued a Report and Recommendation, recommending Defendant's alternative motion for summary judgment be granted. (Doc. No. 50). Petitioner filed a timely objection to the Report and Recommendation. The matter is at issue.

In the Report and Recommendation, Judge Roberts recited the evidence offered by Defendants in support of their alternative request for summary judgment. Judge Roberts further stated:

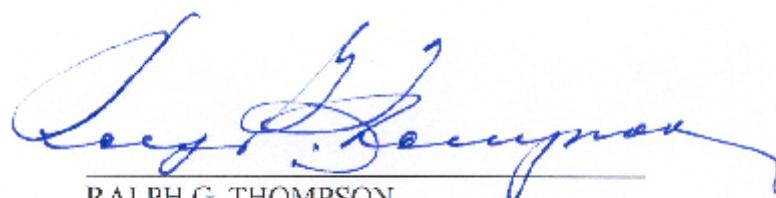
While there can be no doubt that Plaintiff has a serious health condition, the foregoing, undisputed facts demonstrate that the James Crabtree medical staff has consistently monitored Plaintiff and his health situation and has provided him with ongoing care, albeit not the care which Plaintiff desired. . . . At best, Plaintiff has demonstrated a disagreement over his course of treatment and medications, and such disagreement is not tantamount to a deliberate indifference to Plaintiff's serious medical needs. *See Ramos [v. Lamm]*, 639 F.2d [559,] 575 [(10th Cir. 1980)].

(Report and Recommendation at 8.) In addition to noting the disagreement as to the medicine to be prescribed for Plaintiff, the Report and Recommendation also notes that Plaintiff disagrees with the Defendants' decision on his request to see a specialist. (*Id.* at 8 n. 2.)

Plaintiff's objection focuses on two matters. First, Plaintiff argues that Defendants' motion and the Report and Recommendation improperly focus on a medical issue with his neck. Second, Plaintiff argues that he has shown that Defendant Troutt has refused to properly diagnose and treat his lower back problem.

The Court has reviewed the Report and Recommendation and Plaintiff's objection thereto. The Court finds no basis for sustaining Plaintiff's objection. Clearly, the Report and Recommendation was focused on Plaintiff's claims that Defendants have been deliberately indifferent to his medical needs with respect to his lower back. As noted by Judge Roberts, there is no evidence tending to support Plaintiff's position that Defendants are deliberately indifferent to Plaintiff's serious medical needs. Rather, the evidence shows Defendants have consistently monitored Plaintiff and his health situation and have attempted to provide him with ongoing care. Plaintiff's decision to refuse that care and insistence on a different course of medical treatment does not demonstrate that Defendants were or are deliberately indifferent to his serious medical needs. Accordingly, the Court ADOPTS the June 23, 2005, Report and Recommendation in its entirety and GRANTS Defendants' alternative motion for summary judgment (Doc. No. 19).

IT IS SO ORDERED this 19th day of July, 2005.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE